



July 18, 2005

TO: MEMBERS OF THE JOINT COMMITTEE ON GOVERNMENT OVERSIGHT

FROM: Mark Johnson

RE: HF 829 Comments

House File 829 would establish a limit on the length of master agreements of no longer than five years unless a longer term is determined to provide a greater fiscal savings. The proposal requires that supporting documentation for this determination be filed with the Department of Management (DOM) for review. DAS continues to have concerns regarding this legislation for the following reasons:

1. The five-year limit potentially increases the time prior to which an agreement may be entered into at the conclusion of a competitive bidding process if a time period longer than five years is sought. This additional time may be necessary to allow DOM sufficient time to review any supporting documentation.
2. The language seems to indicate that DOM only reviews this documentation. Do they have approval/veto authority under this proposal or do they merely review and file? If DOM is expected to approve/veto the extended time, do they currently have the expertise to appropriately evaluate a proposal?
3. The five-year language, as an unintended consequence, may also serve to lengthen the average length of master agreements. Currently, the majority of master agreements that are entered into are for an initial term (X years) with renewal options. Given the time and expense of a competitive bidding process, a longer term (not exceeding five years) is potentially encouraged, thereby eliminating current reviews that occur when renewal options are reviewed.
4. The five-year limitation potentially interferes with multistate agreements involving contracts that may be for longer periods.
5. Requiring an agreement to be competitively bid prior to any extension will increase the cost of these extensions and reduce the incentive on existing vendors in the initial competitive bidding process if they are required to go through the bid process at the end of the initial term without regard to their performance.
6. It is unclear whether the competitive bidding "process" is the same as the competitive bidding "procedure" that DAS is required to establish by rule.
7. DAS is also concerned about the potential unintended consequences that may result from moving this proposal forward without adequate review of the entire procurement procedure and other areas that may be impacted.